



Starting up a new business

Deciding to set up a new business is the easy part... working out what to do next is far from obvious. This document answers some of the questions you might have but the best place to start is always with qualified legal advice.

What are my options for business structure?

Structure	What is it?	Pros	Cons
Sole trader	This is the simplest way to start in business as it is not actually a company formation but merely self-employed status. You are simply required to notify HMRC and to choose a business name.	Simple, doesn't require legal company formation. An inexpensive way to start working for yourself.	You are solely responsible for your business liabilities. There may be other legal and tax implications for working in this way. You cannot share a business with anyone as a sole trader.
Limited Company	A limited company is a separate legal entity, different from its shareholders and directors.	It's a flexible way of involving other people (directors, investors etc). You are protected by limited liability – that means your risk is usually limited to the money you have invested in the business.	This involves more administration than a sole trader structure, as well as relative costs. You could also be held personally liable as a director if you carry on trading when you know, or ought to have known, that there was no reasonable prospect of avoiding insolvency or if you have done so fraudulently. You may also incur personal liability for breaching directors duties.
Partnership	A simple way of two or more people forming a business together without any limited liability.	There can be tax efficiencies of setting up a partnership rather than a limited company. Sharing in the business, in this way, can help to ensure commitment.	A lack of limited liability can cause significant risk and problems if the business fails or struggles. Business growth and succession can be difficult in this structure.

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Limited Liability Partnership	A separate legal entity from the members but run in a similar way to a partnership. Mostly used for professional partnership.	For those required to operate in a partnership this can be a low risk way of working. This is protected with limited liability, unlike a ordinary partnership.	These are not as flexible as limited companies in that it is much harder to bring in outside investors. Individual members are taxed as if they are in an ordinary partnership and do not benefit as they might in a limited company.

How do I get going then?

To start with the best course of action is to speak to your legal advisor or accountant.

Who do I need to form my company?

Every private company must have at least one member and one director. Although private companies are not required, by law, to have a company secretary it can be helpful to appoint one. Traditionally this role is responsible for all of the administrative tasks and legal obligations in terms of returns and reporting.

What are articles of association?

Your articles of association set out how the company will be run, what powers the directors have and how shares will be managed. This can be as flexible or restrictive as you wish but unless you adopt your own articles you will default to the model articles put in place by Companies Act 2006. You should take legal advice on this as it establishes the foundation for your future business growth plan.

What are shareholders' agreements?

A shareholders' agreement is a legal document setting out what your strategy for managing shareholders will be, what will happen as it grows or requires funding, exit strategies and how shareholders can leave the business etc.

There is no legal requirement to have one but it is recommended. Once again you should take legal

advice on this as it supports the foundation for business strategy.

We're setting up a partnership... what agreement do we need?

Again, there is no legal requirement to have a formal partnership agreement but failing to have one increases the likelihood of disputes arising and makes them harder to resolve. It also avoids the less favourable consequences of the Partnership Act 1890.

As a minimum it should include information on how the business will be financed (including individual contributions), how profits will be shared, how decisions will be made, how disagreements will be resolved and what will happen should someone wish to leave the partnership. You could also consider including holiday entitlements, rules about employing family members, business strategy and procedures for considering additional partners.

Naming your business

It's important that you select a name that is clear and distinct from other businesses' names for a limited company. We can check this for you through Companies House.

You may wish, however, to trade under a different name (either a shortened version, your own name or the names of all partners, for example). You can do this but must make sure that the full name is disclosed on your business stationery, on your website and at your business premises.

Of course, it's important when registering your name or choosing a trading name that you do not use anything that is intentionally misleading or confuses you with another organisation in the same line of business.

Some word choices may need to be justified before you will be allowed to use them. You can see a list of words that have to be justified, and how you justify them, at www.companieshouse.gov.uk (although the rules apply to all business names, not just the registered names of limited companies).

Sole traders (and ordinary partnerships) are prohibited from using the word 'Limited' (or Ltd) in their name.

Are there any other legal issues I need to consider?

1. Do I need to do a health and safety assessment?
2. Do I need a licence?
3. Do I need employment contracts?
4. Do I need a lease on a commercial property?
5. Do I have terms and conditions of trade?
6. Do I have intellectual property that I should protect?
7. Should I register for VAT?
8. Have I sorted out correct signage for my office?

For help setting up your business please follow the link wards.uk.com/service/commercial-services or contact Marina MacLennan or Ciaran Keane on 0117 9292811